File No. #4404

1934.

Collection No.

Pros. Serial Nos. 1 — 2

Subject.

REMISSION OF SENTENCE PASSED ON CONVICTS BY THE C & M STATION COURTS, BY THE LOCAL GOVERNMENTS.

Petition from "BHOOL ~~SHINGH~~ Singh for —

Previous References.	Later References.
52/10	

NOTES AND PRECIS.

Sectio **FILE No. 404 1934** File No.

Heading. Serial No.

NOTES.

DEPT.
BRANCH.

Pros. 19 Nos.

Subject.

Remission of Sentence passed on Convicts by the C & M. Station Courts, by the Local Govt.

Bhool- Singh

Notes and Orders.

S. 1.

Letter No. 10983, dated the 9th July 1934, from the Inspector-General of Prisons, Ootacamund.

PETITION FOR REMISSION OF SENTENCE FROM THE CONVICT BHOOL SINGH.

This is a petition addressed to H.E. the Viceroy and Governor-General in Council, from Bhool Singh, B Class convict No.8069 of the Central Jail, Vellore, for the remission of a sentence of transportation for life passed on him in Criminal Appeal No.1 of 1933 on the file of the Court of the Hon'ble the Resident in Mysore, Bangalore. He has not previously addressed the Local Government (the Resident) who, under section 401 of the Code of Criminal Procedure, has power to suspend or remit his sentence. The petition may therefore be withheld under proviso (c) to clause (6) read with clause (12) of Instruction 7 of the instructions for the submission of petitions to the Governor General in Council, published with the notification of the Govt. of India in the Home Department No. F. 6/7/33-II dated the 24th June 1933.

Draft submitted.

20/7/34

(To be included in the Return of Memorials withheld).

It can be withheld under clause (12) itself. There is no need to make any mention of proviso (c) to clause (6). I have amended the draft accordingly. There do not appear to be any grounds for remission of sentence; and the draft may issue, if Govt. approve.

22.7.34

CORRESPONDENCE.

C.F. 32.

In reply please quote number, date and short title.*

Jail DEPARTMENT.

Received Registered

From (Name) Lieut-Col.M.M.Khan, I.M.S.,

(Designation) ag.Inspector-General of Prisons,

Post Box ____, (Station) Ootacamund.

Telegraphic Address Palamedico.

To

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
12 JULY 1934
Regd No. 6243
File No. 404/34

Hon'ble the
The Resident in Mysore,

Mysore.

No. 10983, *dated* 9th July *19* 34.

*

ENCLOSURES

SPARE COPIES

Jails - Central Jail, Vellore - Convict No.8069, Bhool Singh - Petition for remission of sentence-

...

I have the honour to submit, herewith, a petition for remission of sentence from the convict referred to above addressed to His Excellency the Viceroy and Governor-General of India for necessary action.

2. The nominal roll and copies of judgments of the lower and appellate courts, relating to the prisoner are enclosed.

I have the honour to be,

Sir,

Your most obedient servant,

vss

Personal Assistant
to the Inspector-General of Prisons.

To

His Excellency The Viceroy and Governor-General of
India in Council
Simla

Through The Superintendent
Central Jail Vellore
Madras Presidency.

The humble petition for mercy submitted by Bhoop Sing, late Naik No: 9414 in the Field Battery No 68/88 Bangalore and now B Class Convict No 8069 Confined in the aforesaid Jail.

1) Your Excellency's humble petitioner was Convicted under Section 302 I.P.C and was sentenced to death by the Sessions Judge civil and military station Bangalore in Sessions Case No: 1 of 33 on 9.3.33 and this sentence was reduced to one of transportation for life by Honourable the Resident.

2) Your Excellency's humble petitioner entered into His Majesty's Military Service in 1916 and was on active military service during the Great War, in France, Egypt and Mesopotamia from 1917 to 1921; this petitioner's services during this memorable period are on record and your Excellency's humble petitioner was made Lance Naik in 1922 and Naik in 1923 and was appointed Instructor in A.R.T.C. military training Depôt Muttra from 1927 to 1930 till he came to Bangalore in March 1930 as a member of the aforementioned Field Battery where he stayed till the date of this case; this humble petitioner was specially brought to Bangalore on account of his specal skill in training new horses for military purposes, which skill was much appreciated by the successive Commanding officers, and this humble petitioner was paid special allowance during his stay in Bangalore for this extra Work.

4) In 1931 when there was Retrenchment about 40 persons from the field Battery were discharged, on full pension though the total period of Service was less by a year or two and also under other very favourable Conditions, retaining in Service best and picked men with good records.

Your Excellency's humble petitioner, at that time requested the then Commanding Officer to be discharged but that Officer was unwilling and expressed unwillingness to do so on account of this petitioner's cleanest past record efficient work and special skill in training horses. The then Commanding Officer Major Buching and Sergeant Major Wood induced this humble

this humble petitioner to Continue in [illegible] promising fair and hopeful future.

B About 26-11-32 orders were received by the Commanding Officer, transferring on promotion Khota Lal Quarter Master Havildar in the Battery to A.A.T.C. training Depot Muttra. This humble petitioner was the senior most man in the Battery for the vacant Havildar's post, as he passed the necessary tests and examinations required for holding the post, and had sixteen years of uniformly fault less Service. All were expecting this humble petitioner would be recommended for the post but this was not to be.

Jamadar Ranjit Sing, the Chief Indian Officer of the Battery and (P.W 9) evidently with a motive, ordered that all the important heads among his military subordinates, should gather together at about 8 P.M. on 27-11-32; his oral orders to that gathering were not to permit (P.W 12) Bommi, a milk Woman to come inside the lines to sell milk. It is on evidence that She was Coming inside the lines for the last two years and that many were her Customers. All the heads of the military Subordinates including this humble petitioner agreed to Carry out these oral orders of the Jamadar. But as it was late in the night on 27-11-32 when these orders were given, and as She could not have known of these orders, She came into the lines as usual at about 8 A.M. on 28-11-32 for which this humble petitioner was in no way responsible as he was neither the master of the Barracks nor the master of that Woman; many who were at last night's meeting saw her near back lines, and Havildar Bombhal Sing (P.W.10) asked her to go away and She went away. Your Excellency's humble petitioner did not even buy his supply of milk from that Woman that day (P.W 8 Para 18 Judgment). Under such circumstances, it is this humble petitioners misfortune that the Jamadar should have reported to Lt. Col Sow that this petitioner slept with a Woman whole or part of the night (Para 20). The most surprising thing was that this Complaint was on 28-11-32 This humble petitioner was first ordered to be kept under open arrest, then under close arrest (to be taken before) to be taken before Se. Major. Hammerton where after some enquiry this Sergeant-Major was pleased to order that an application would be made to the Commanding Officer during the Course of the month for the discharge of this petitioner from the Military altogether. ie before 1-12-32. Thus the oral orders were given on 27-11-32 at 8 P.M. and Complaint, enquiry and discharge all Completed before

before 12 noon on 28-11-32; and this humble petitioner's Submission to your Excellency is that at 7-30. P.M on 27/11/32 this humble petitioner was the best and seniormost sick with absolutely faultless record of 16 years service and fittest to be recommended for the vacant Havildar's post and by 12 noon on 28-11-32 ie (before) within less than a day, this humble petitioner was declared not only the unfittest man for the vacant Havildar's post but also the unfittest man to be the member of any military organisation in any part of India or the Empire. There was no Court Martial enquiry before such ruinous orders were passed.

This humble petitioner's claim over your Excellency's mercy becomes all the more irresistable, when it is known, that the learned Judge after a most searching and impartial discussion of this charge of this humble petitioner having slept with a woman, Concludes in para 21 "There is no evidence of any body who has seen it that P.W 12 slept with the accused at any time or that She was found inside the accused's quarters. ---. there may have been suspicion that there were improper relations (befo) between the accused and her, neither the Jamadar nor the Havildar say so." So in the opinion of this learned Judge, the charge in Consequence of which this humble petitioner was discharged, is false. This humble petitioner begs therefore to Submit, if there were Court martial to enquire into this charge, that Court would have come to the same Conclusions, and would never have been discharged at ask. That military would have recognised this petitioner's claims for Havildar's post, and this petitioner would have been a loyal member of His Majesty's Army once again ready to risk life in the Cause of the Empire.

your Excellency's humble petitioner begs to Submit that this act of his discharge from the military on a false charge without Court martial and without looking to the absolutely faultless and creditable sixteen years' Service is an act of grossest injustice and has injured him and his reputation beyond measure and almost unknown to military service.

6. A careful perusal of para 5, above will Convince any one of two facts (1) That the Jamadar the Chief Indian Officer of the Battery was not well disposed towards this humble petitioner, (2) an act of grossest injustice was done to this petitioner, for which the responsibility was mainly on the shoulders of this Jamadar; his adverse statements, in his depositions, against this petitioner were corroborated neither by his British Officers nor by his Indian Subordinates.

This humble petitioner was to leave the lines before 1-12-32. Your Excellency's humble petitioner made up

his mind to leave the lines and approach the Generals with a petition.

Your Excellency's humble petitioner was in this state of mind in great tension, due to grave injustice and injury to his reputation which no true Rajaput can forget; but inspite of this he would have left the lines if no insult was added to the injury done; it was in this state of mind that your Excellency's humble petitioner was leaving the lines at about 2 P.M. on 30-11-32, when the two deceased jeered this petitioner how they succeeded in not only depriving him of Havildar's post but also of all service in the military. This was the last straw on the Camel's back. this humble petitioner felt Compelled to retort; from words it came to blows: every one engaged in the fight being under uncontro-lable passion.

The learned Judge in fixing the final guilt was more guided and impressed with the central facts 1) that Mardan Sing and Chakraban Sing died 2) they died as a result of the blows of this humble petitioner than upon the situation and circumstances that brought about the quarrel, and having become convinced that these are facts, he set aside as of little importance, several ~~several~~ material discrepancies in the evidence of impo-tant witnesses — P.W. 13, 14, — on whose evidence as eye witnesses he mainly depends.

There are several discrepancies all noted on Page 10 of the judgement; this humble petitioner should not and would not represent this case again on facts as they were already weighed in Courts of law.

When the prosecution suggested that this petitioner got the Chopper (instrument used in quarrel) the learned Judge was pleased to reject the suggestion as not based on evidence. (Para 40, 41, 42). In para 22 of the judgement the learned judge was pleased to say there was no motive for Mardan's murder and that for Chakraban's was unsatisfactory.

The learned judge believes, there was previous intention on the part of this petitioner to murder the deceased, simply because P.W. 13 stated that the accused first came to the room, stood there, went away, and then after some time came again with the instrument (Para 42) He feels that this is quite insufficient to Conclude there was previous intention. In paras 29, 30, 38 and 39, the learned judge is seen to struggle hard for some hint or clue to lead him to believe there was ill feeling between the Jamadar and this humble petitioner. It was the greatest misfortune of this humble petitioner, that the situation as detail-ed in part B of this petition was never impressed on the learned judge for then he would have been convinced of the bad relations, and knowing fully well of the great influence of the Jamadar, he would have been convinced he had motive to make P.W's 13, 14, 15 perjure against this petitioner (Para 30).

and the Conclusions would have been quite different.

Your Excellency's humble petitioner begs to submit that the whole Course of the fight as described by P.W. 13, 14, 15 is most unnatural and Contrary to Experience - these describe the deceased as passively receiving blow after blow with neither a serious effort at self defence nor even a cry for help, much less a serious attempt to over power a single opponent as there were four in the room. Even helpless Women and Children would not take the attitude these are described to take and yet they are neither Women nor Children but brave Rajputs trained in the Ways of fearless military life. The same may be said of P.W. 13, 14 who state they ran away when threatened with an attack; the fact is things never took place as described by P.Ws 13, 14, 15.

After hot words, the deceased did attack. This humble petitioner with the instrument and this humble petitioner protected himself either by keeping himself off the direction of the blow by side way movement or by [illegible] the blow on the hand as it descended on his head with force till this humble petitioner, in this life and death struggle, succeeded, to his good fortune, in snatching the weapon from the opponent and when this petitioner got it, he did use it with force absolutely in self defence. This explains the statement of driver Collins that one of the hands of the accused was bleeding. If the Chopper was throughout in the room as this petitioner, as described by P.W.s 13, 14, 15, how Could one of the hands of the accused bleed?

In fact it was a free fight between brave men, overpowered by deep feeling. The deceased provoked this humble petitioner to take part in it by adding insult to injury of an unjust discharge already described.

This humble petitioner respectfully begs to submit, that the four assessors, absolutely unconnected with the accused - a Parsi, a Persian, a Mahomedan, and a Britisher the last a retired military officer, who followed the evidence closely recognise it as a free fight and say that the guilt does not Come under Sec. 302 I.P.C.

Most of the C witnesses belong to the village and Taluq of the accused Jamadar and are directly or indirectly related to him. and to this is added his unbounded influence over these as the Chief Judicial Officer of the Battery and under such circumstances it was impossible for this petitioner to get any defence witnesses.

The Chief of the assessors is a Britisher - an Officer of Military department now on pension. He recognises it not as a Cowardly premeditated murder but as a fight. The Spirit in which a military Court would enquire into Cases of this nature, would understand appreciate the circumstances, events and situations leading up to such Cases, is quite different from that in which civil Courts &c.

In Para B supra, this humble petitioner submitted how he was discharged within few hours, on a [illegible] and without Court martial enquiry and again after the fight on 30-11-32, this humble petitioner was kept in the guard room till about 10-1-32 and again for the second time, this humble petitioner was refused trial by a Court martial and his case was, to his great misfortune, handed over to civil Courts. If this humble petitioner was given at least on this second occasion, the coveted privilege of [illegible] by Court martial, he feels convinced the sentence would never have been for murder under 302 I.P.C. and even if such Court were to find him guilty under this section and direct his being Shot dead, that would have been the most desirable kind of death for a Rajaput - Worthy of a Rajaput than this life of humiliation and suffering in a Convict society.

But no military Court ever failed to distinguish between a base and Cowardly murder and a brave and fearless fighter whose righteous indignation is roused by injured self respect and reputation, after which no Rajaput feels life Worth living.

Your Excellency's humble petitioner begs to submit in Conclusion

1) The Crime of which this humble petitioner was charged and convicted, does not really come under Secd. 302.

2) This humble petitioner had the most faultless record of Service for over 16 years; his record may be called for from A.R.T.C training depot Muttra.

3) This humble petitioner has to his credit four years of the active field service in France, Egypt and Mesopotamia during the great War from 1917 to 1921.

4) His discharge from the field Battery 68/88 on a charge which the learned states to be false, without Court martial enquiry, with a few hours notice, is an act of injustice, that was [illegible] in the military annals of any Country.

The Charge was false; and was simply to blacken my name for the first time and thus deprive me of the chance of getting Havildar's post just before me on account of the transfer or promotion Quarter master Havildar Lehota Lal.

5 This humble petitioner's discharge without Court martial enquiry was unjust; but a greater injust-ice was done to him by handing over his case to the Civil authorities, instead of trial by Court martial, to which this humble petitioner was entitled.

6) This humble petitioner lost heavily, — lost his appointment, his pension, his differential pay of Rs 25%, his reputation and above all the privilege of being the member of His Majesty's army and risking once again his life in the Cause of the empire.

7) The Civil Courts have not appreciated the situation Correctly; the sentence is un-bearably heavy; the stigma of being a murderer is unbearable.

8) If there were Court martial enquiry at the time of discharge, there would have been no quarrel; if there were Court martial trail after the quarrel, the sentence would never have been under section 302 I.P.C. and would never have been so unusually heavy.

This humble petitioner begs your Excellency may be graciously pleased to give him one chance in life, and thus save him from this most degrading Convict life by an act of Supreme mercy for which your Excellency's humble petitioner will remain ever grateful and devoted.

Your Excellency's humble petitioner

Rajput: Late Naik 7 [illegible]
Battery 68/88 Bangalore
B Class Convict No: 8057.

Central Jail
Vellore
2-7-46

B'ccas prisoner.

Receipt by Superintendent Central Jail Belgaum

Judl. (Jail-II)-27—8,496—9-5-32.

FORM No. 52.

(See Rule 879, Jail Manual.)

Nominal Roll of Male * Convict No. † A 8069, Name Bhoot Singh s/o Ganesh Singh, Residence (Village, Taluk and District) Ayaram Barpalera Caste Hindu Rajput; Present Age 35 years, Occupation Sepoy

Section and Code under which imprisoned.	Original sentence of order and date.	Adjudicating Court and Calendar number of case.	Unexpired term of sentence after deducting remission earned. Y.	M.	D.	Present state of health and fitness to undertake a journey.‡	Result of appeal (if any).	Conduct in Jail.	Remarks.
I Sec 302 IPC II Sec 120 (B) IPC Murder 59 of 1932	Death Sine die 9.3.1933	I Sessions 33 Sessions Civil Surgeon II Sessions 59/33 Sessions Civil Surgeon	19	1	14	I II	I Death Commuted to transportation for life on 31.3.1933 II Not appealed	Good	Remission earned up to end of preceding month 576 days.

* Strike out and add "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

NOTE.—Personal and descriptive marks are to be given on the reverse when (1) rolls accompany prisoners transferred, (2) police assistance is sought for the recapture of an escaped prisoner.

Central JAIL,
Belgaum
27 1934

30.9.53
2.7.84
28.2.19
24.1.19
4.1.19

Superintendent

All Communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. 5330-Secret
404-R.O.I/34.

FROM

Major C. G. N. Edwards, I.A.,

SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Inspector-General of Prisons,

O o t a c a m u n d.

Dated, Bangalore, the 31st July *1934*.

Subject.

CONVICT BHOOL SINGH'S PETITION TO HIS EXCELLENCY THE VICEROY AND GOVERNOR GENERAL FOR REMISSION OF SENTENCE.

SIR,

I am directed to say that the petition forwarded with your letter No. 10983, dated 9th July 1934, has been withheld under *clause (12) of Instruction 7 of the instructions for the submission of petitions to the Governor General in Council, published with notification of the Government of India in the Home Department, No.F.6/7/33-II, dated the 24th June 1933. I am to request that the petitioner may be informed accordingly.

*Extract enclosed.

2. I am also to return the records received with your letter.

I have the honour to be,

Sir,

Your most obedient servant,

SECRETARY TO THE RESIDENT.

BJ
25/7